IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

APPEAL NO.633 OF 2005
IN
CHAMBER SUMMONS NO.335 OF 2005
IN
EXECUTIN APPLICATION NO.77 OF 2002
IN
AWARD DATED 3RD NOVEMBER OF 2001

M/s.Viral Enterprises & ors. ..Appellants

v/s.

M/s.Camoron Finance & Investment
& ors. .. Respondents

Mr.F. Divitre, senior counsel with Mr.J.P.Sen i/by Mr.Denzil D'Mello for the appellants.

Dr.Virendra Tulzapurkar, senior counsel with Mr.Gaurav Joshi and Ms.Aradhana Bhansali i/by M/s.Ashwin Ankhad & Associates for the respondent No.1.

Mr.G.C. Mohanty for the respondent No.3.

Mr.G.T.Mestha, Commissioner for Taking Accounts is present.

CORAM : R.M. LODHA AND
J.P. DEVADHAR, JJ.

DATED : 9th August, 2005

P.C.

Heard Mr.F.Divitre, the learned senior counsel for the appellants, Dr.Virendra Tuilzapurkar, the learned senior counsel for the respondent No.1 and Mr.G.C.Mohanty, the learned counsel who appears for the respondent No.3 and undertakes to file vakalatnama during the course of the day.

2. During the course of arguments, we wanted to

know from the learned senior counsel and the counsel whether there was any possibility of the matter being worked out amicably. After due deliberation, the learned senior counsel for the appellants, the learned senior counsel for the respondent No.1 and the counsel for the respondent No.3 agreed to the following order:-

(i) The appellants and the third respondent agree that in full and final settlement of the claim of the first respondent under the consent award dated 3rd November, 2001 including any claim of interest (statutory or otherwise), the charges, expenses, cost or otherwise, they shall pay a further sum of Rs.5,00,00,000/- (Rupees Five crores) to the respondent No.1 within six weeks from today.

(ii) For the purposes of payment in the sum of Rs.5,00,00,000/- (Rupees Five crores) as agreed to by the appellants and the respondent No.3 to the first respondent, it is further agreed that the parties shall make a joint application before the Recovery Officer, Debt Recovery Tribunal-I in

the Recovery proceedings No.466/2003 for disbursement of the amount of Rs.5,00,00,000/- (Rupees Five crores) out of the sale proceeds of the Worli property. All the three parties viz. the appellants, the first respondent and the third respondent herein undertake to take all the necessary steps and complete all requisite formalities that may be required by the Recovery Officer to enable the Recovery Officer, Debt Recovery Tribunal-I to make the payment of Rs.5,00,00,000/- (Rupees Five crores) to the first respondent within six weeks from today.

(iii) Upon payment of Rs..5,00,00,000/- (Rupees Five crores) by the Recovery Officer, Debt Recovery Tribunal-I to the first respondent herein from the sale proceeds of the Worli property, the claims of the first respondent under the consent award dated 3rd November, 2001 including any claim of interest (statutory otherwise), the charges, expenses, cost or otherwise shall stand fully discharged.

(iv) Upon the receipt of the payment of

Rs.5,00,00,000/- (Rupees Five crores) by the respondent No.1, the respondent No.1 shall within four weeks therefrom demarcate and hand over the possession of the properties of all the documents in their possession as available with them in respect of plot bearing CTS No.139, admeasuring about 300 sq.yards situate at Sahar Road, Vile Parle (East), Mumbai and the respondent No.1 shall have no claim or rights to the said property.

(v) Upon receipt of the payment of Rs.5,00,00,000/- (Rupees Five crores) within a period of four weeks therefrom, the respondent No.1 shall also withdraw the FIR lodged by them with the G.B., C.B., C.I.D., Economic Offence Wing, Crawfard Market, Mumbai which is pending as case No.1845/P/2000 before the Additional Metropolitan Magistrate, Esplanade, Mumbai.

(vi) In case the appellants and the respondent No.3 do not take necessary steps and/or complete the requisite formalities to enable the Recovery Officer, Debt Recovery Tribunal-I to

make payment of Rs.5,00,00,000/- (Rupees Five crores) to the respondent No.1 from the sale proceeds of the Worli property and the respondent No.1 do not receive the amount of Rs.5,00,00,000/- (Rupees Five crores) from the Recovery Officer within six weeks from today and the appellants and the respondent No.3 fail to make payment of Rs.5,00,00,000/- (Rupees Five crores) to the respondent No.1 within two weeks from the expiry of six weeks from today from any other source, the aforesaid consent order shall stand withdrawn; the appeal shall stand dismissed and the respondent No.1 shall be at liberty to pursue its claim against the appellant and the respondent No.1 under the consent award dated 3rd November, 2001 and the order passed by the learned Chamber Judge shall remain operative.

No costs.

(R.M.LODHA, J.)

(J.P. DEVADHAR, J.)